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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the human rights situation in the Republic of Equatorial Guinea submitted by Mr. Alejandro Artucio, Special Rapporteur of the Commission, pursuant to Commission resolution 1994/89

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Annex: Letter dated 3 January 1995 from the Special Rapporteur addressed to the Chairman of the Commission on Human Rights

INTRODUCTION

1. The Commission on Human Rights has concerned itself publicly with the question of the situation of human rights in the Republic of Equatorial Guinea since 1979. At its forty-ninth session, in resolution 1993/69, the Commission requested its Chairman, following consultations with the Bureau, to appoint an individual of recognized international standing in the field of human rights and entirely familiar with the situation in Equatorial Guinea as special rapporteur of the Commission, with a mandate to make a thorough study of the violations of human rights by the Government of Equatorial Guinea on the basis of all the information which he considers relevant, including information furnished by intergovernmental and non-governmental organizations and by private individuals and, in particular, any documentation provided by the Government of Equatorial Guinea. That resolution was approved in decision 1993/277 of the Economic and Social Council, and the Chairman of the Commission appointed Mr. Alejandro Artucio (Uruguay) as the Special Rapporteur.

2. At the same time, the Centre for Human Rights and the United Nations Development Programme (UNDP) paid special attention to the situation in Equatorial Guinea and sent several advisory missions there. By agreement between both organizations, Mr. Eduardo Luis Duhalde was appointed as the Human Rights Consultant in Equatorial Guinea for the purpose, established in the terms of reference, of assisting the Special Rapporteur in all respects, and in particular by providing him with reliable and comprehensive information collected in situ on the human rights situation; by assisting the Monitoring and Follow-up Commission provided for in the National Pact of 18 March 1993; by coordinating in situ the Centre for Human Rights' technical assistance services to the Government of Equatorial Guinea; and by helping the Special Rapporteur to define, in agreement with the Government of Equatorial Guinea, the most appropriate legislative and institutional framework for ensuring an effective improvement in the human rights situation in that country.

3. Of the missions undertaken during this period, the United Nations/UNDP mission of 7 April 1993 deserves special mention. Its aide-mémoire constituted a veritable plan of action submitted to the Government of Equatorial Guinea for its consideration. Mention should also be made of the advice given about preparations for elections indicating the measures that should be adopted by the Government to ensure a transparent electoral process and the free exercise of democracy but which were not applied by the authorities at the proper time.

4. At its fiftieth session, the Commission on Human Rights considered the report (E/CN.4/1994/56) of the Special Rapporteur, Mr. Alejandro Artucio, and adopted, without a vote, resolution 1994/89 dated 9 March 1994. In the resolution, the Commission, inter alia, expressed its serious concern at continued reports of the persistence of violations of human rights, such as arbitrary arrests and detentions of political opponents, often accompanied by torture or cruel, inhuman or degrading treatment, and deplored the situation and legal and social status of women in Equatorial Guinea. The Commission also expressed its concern at the fact that the Government had neither taken account of the new Plan of Action prepared by the Expert, Mr. Fernando Volio Jiménez (Costa Rica), in 1992 nor satisfactorily

implemented the seven points of the aide-mémoire submitted by the United Nations/United Nations Development Programme inter-agency mission in April 1993. The Commission decided to renew the mandate of the Special Rapporteur for one year and requested him to report to the Commission at its fifty-first session. It requested the Secretary-General to provide the Special Rapporteur with all assistance necessary for the discharge of his mandate and to provide the Government of Equatorial Guinea with technical assistance in those specific areas suggested by the Special Rapporteur in his report. That resolution was approved by the Economic and Social Council in decision 1994/271, dated 25 July 1994.

I. ACTIVITIES IN SITU: REPORT ON THE SPECIAL RAPPORTEUR'S THIRD VISIT TO THE REPUBLIC OF EQUATORIAL GUINEA

5. On 11 May 1994, the Special Rapporteur travelled to the Republic of Equatorial Guinea at the invitation of that country's Government, extended on 29 March 1994, to set in motion the recommendations made in his report to the Commission on Human Rights (E/CN.4/1994/56) and approved by the Commission on Human Rights in resolution 1994/89. His visit was preceded by the preparatory visit of the Human Rights Consultant, Mr. Eduardo Luis Duhalde.

6. During his visit to Equatorial Guinea, the Special Rapporteur, with the assistance of the Human Rights Consultant, held intensive discussions with the Government of Equatorial Guinea represented by Ministers, Secretaries of State and other officials, culminating in the audience granted by His Excellency the President of the Republic, Mr. Obiang Nguema Mbasogo, with whom the Special Rapporteur had a wide-ranging, frank and cordial discussion about the overall human rights situation in Equatorial Guinea and those aspects of it that needed to be rectified. The President of the Republic reiterated his Government's desire to implement the recommendations made by the Commission on Human Rights in resolution 1994/89 and invited the Special Rapporteur to make more frequent visits to his country, as he considered that the visits were very useful and provided an opportunity to engage in a direct dialogue.

7. Meetings were also held with representatives of the political and social sectors in Equatorial Guinea including the political parties forming the Joint Opposition Platform, and with those sectors and individuals whose experience, reports and verification had enabled the Special Rapporteur to prepare the report he had submitted to the Commission on Human Rights at its fiftieth session. His work and discussions with the UNDP Resident Representative and with diplomatic representatives of the donor countries accredited in Malabo formed an important part of the Special Rapporteur's activity.

8. The visits to Malabo and Bata prisons and the journey around the interior of mainland Equatorial Guinea from 18 to 21 May 1994 were essential features of the third official mission there. The Special Rapporteur was thus able to visit a number of towns and villages in the interior, including the town of Ebebiyin, and to travel to the country's north-east tip and to the borders with Cameroon and Gabon.

9. During the first few days of his visit, the Special Rapporteur transmitted to the Government of Equatorial Guinea an aide-mémoire setting

out matters of urgency and priority measures which should be adopted to ensure the observance of human rights in Equatorial Guinea. The aide-mémoire specified the following objectives for the visit by the Special Rapporteur: (a) to ascertain the current level of observance of human rights in Equatorial Guinea; (b) to assist the Government in implementing the recommendations contained in the report of the Special Rapporteur (E/CN.4/1994/56) approved by the Commission on Human Rights in resolution 1994/89; and (c) to cooperate with the Government of Equatorial Guinea in defining the immediate priorities and matters of urgency contained in those recommendations.

10. The aide-mémoire contained the following points:

"In order that the desire of the Government of Equatorial Guinea to implement the recommendations and suggestions of the United Nations Commission on Human Rights, as expressed in its letter of invitation to the Special Rapporteur dated 29 March 1994, may become immediately and clearly manifest, it is suggested that the following measures should be adopted as gradual steps towards full compliance with those recommendations:

(a) Consolidation of the progress made in the cities of Malabo and Bata with the reduction of arbitrary detentions, political persecution and ill-treatment of detainees, the extension of that progress to the whole country, and the complete elimination of such violations of human rights through 'an end to arrests, arbitrary detentions and persecutions on political grounds' and an immediate end 'to torture and cruel, inhuman or degrading treatment or punishment' (E/CN.4/1994/56, para. 103 (a) (i) and (ii));

(b) The granting of a pardon or similar measure of clemency to allow the former military personnel tried in October 1993 (Jacinto Nculu Abaga and others) to be immediately released, as was suggested at the time by the Special Rapporteur, in view of the failure of the military courts to observe due legal process;

(c) Unrestricted granting of the 'free and full exercise of political rights to all citizens without discrimination of any kind on grounds of race, national or ethnic origin, sex, political or other opinion', together with 'full respect for the exercise of the right to freedom of opinion, expression and dissemination of ideas' (E/CN.4/1994/56, para. 103 (a) (vii) and (ix)). To achieve this, the following measures are urgently required: the release of Mr. Wueja Chicampo, who is accused of belonging to the Movimiento de Autodeterminación de la Isla de Bioko (MAIB) (Movement for the Self-determination of the Island of Bioko) and has been detained since 1 May 1994; the release of the six individuals held in Malabo prison in connection with the incidents of 17 April 1994 at Rebola, and of the two individuals also imprisoned for the incidents of 16 March 1994 at Basacato (Jerónimo Rambé Epitie and Luis Tojaka Lopeo); furthermore, the practice of trying civilians for those incidents before military courts should cease;

(d) Measures to enable all political parties to exercise their right of participation (E/CN.4/1994/56, para. 103 (a) (viii)). In this connection, there is an urgent need to end the harassment of the members, and attacks on the premises, of political parties in Ebebiyin, where there have been repeated complaints of such arbitrary acts; measures to draw up the electoral roll, for the administration of elections and for the adoption of an electoral act to ensure democratic process and the transparency of the forthcoming municipal elections, as recommended by the international experts;

(e) Urgent measures to improve the situation of prisoners and detainees, providing them with adequate food and medical care, a paid work programme, and temporary and early release (E/CN.4/1994/56, para. 103 (a) (vi)). As far as this point is concerned, it has been found that the improvements in the food situation and medical care are still insufficient, and no changes have been made in the work and release programmes;

(f) The Republic of Equatorial Guinea should accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1994/56, para. 103 (a) (xiv)); it is suggested that a public announcement of accession should be made immediately;

(g) A decision must also be made immediately to adopt the necessary measures to implement and ensure the observance of the remaining recommendations, which do not require complex legislative machinery or the provision of technical assistance: measures to ensure that the police and security forces will act as professional institutions for the prevention and punishment of crime, under the command of civilian authorities and with functions that are clearly distinguished from those of the armed forces (E/CN.4/1994/56, para. 103 (a) (iv)); measures to guarantee the right of persons residing legally in Equatorial Guinea to travel freely throughout the national territory (E/CN.4/1994/56, para. 103 (a) (x)); publicizing all legislation and government decrees by regular constant publication of the Boletín Oficial del Estado (E/CN.4/1994/56, para. 103 (b) (viii)); and measures to ensure the free development of political life throughout the country and firmly instil in the security forces and all public officials the principles of equality before the law, and the right of all people of Equatorial Guinea to express their opinions freely and to associate with others in advancing them (E/CN.4/1994/56, para. 103 (c) (iii))."

11. The aide-mémoire expressly stated that its purpose was to facilitate the tasks of the Government of Equatorial Guinea during the Special Rapporteur's visit, and that it would consequently be supplemented and if necessary amended by means of such observations as might be necessary in the light of the verification of the human rights situation, which might give rise to further proposals and suggestions for immediate adoption. It was also explained in the aide-mémoire that, in addition to verifying the implementation of the measures recommended, the Special Rapporteur, together with government representatives, would analyse the machinery for the implementation of the technical assistance approved by the Commission on Human Rights.

12. Regarding paragraph 10 (c) above, the Special Rapporteur is able to report that Mr. Wueja Chicampo was released without trial on 19 May 1994, and that all the other individuals mentioned in that paragraph were granted a presidential pardon on 4 June 1994 and released without trial.

13. The Government of Equatorial Guinea appointed the Minister of Justice and Worship, Mr. Francisco Ngomo Mbengomo, to liaise with the mission. Accordingly, on 16 May 1994 the Special Rapporteur sent a note to the Minister, in which he requested information on cases contained in his previous report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/56). In the note the Special Rapporteur asked whether any judicial and/or administrative steps had been taken in relation to the incidents in which Pedro Motú, Gaspar Mba Oyono and Dàmaso Abaga Nve lost their lives. Similar information was requested concerning the case of the rape of a female Spanish aid worker on the mainland. He asked whether, if such steps had been initiated, any conclusions had been reached as a result of the investigations. He drew attention to the fact that the recommendations made in his report, which had been endorsed by the Commission on Human Rights, included a recommendation that anyone guilty of violations of human rights should be placed on trial and sentenced to criminal and administrative penalties and that compensation should be granted to the victims of abuses of authority (E/CN.4/1994/56, para. 103 (a) (v)).

14. In the course of his mission to Equatorial Guinea, the Special Rapporteur received extensive cooperation from the Government of Equatorial Guinea. He also wishes to place on record his appreciation for the constant assistance he received from the UNDP Resident Representative and his staff.

II. CURRENT SITUATION WITH REGARD TO HUMAN RIGHTS IN EQUATORIAL GUINEA

A. Situation of prisoners and detainees

15. The Special Rapporteur visited the public prisons in Malabo and Bata where most detainees in Equatorial Guinea are held. During his visit to Malabo prison on 17 May 1994, the Special Rapporteur noted that despite the lack of resources, a perceptible effort had been made to improve the prisoners' diet by providing them with a daily meal, even though this was still inadequate. Together with the Human Rights Consultant, the Special Rapporteur was able to hold private interviews with virtually all the prisoners, who said that on the whole their treatment was satisfactory. They also said that they had not been ill-treated on prison premises.

16. The Special Rapporteur also ascertained that the prisoners' compulsory labour was still unpaid. However, the Minister of Justice and Worship said that his Ministry had submitted to the Office of the President of the Republic draft legislation which would put an end to that situation and enable the prisoners to be remunerated for their work. The prison authorities introduced the Special Rapporteur to the graduates of the first official training programme for civilian prison guards and warders, four of whom were women. The prison guards and warders are currently serving a probationary period at Malabo prison.

17. It was ascertained that a female pioneer named Anastasia Nsuru had been in prison since the end of December 1993 because she had not paid back her dowry to her husband after their separation. According to the prison register, she was detained on orders from a district judge for an unspecified period "until she pays back the dowry". This prompted the Special Rapporteur to write to the Minister of Justice and Worship in order to draw his attention to the situation and to remind him that Equatorial Guinea is a party to the International Covenant on Civil and Political Rights, which specifically prohibits imprisonment for debt. When the Special Rapporteur discussed the matter with the Secretary of State for the Integration of Women and Social Affairs, the latter expressly undertook to deal with the case.

18. It should also be mentioned that while in Malabo prison the Special Rapporteur found that one prisoner was being held in "total isolation". This individual, who was in an extremely poor physical and psychological state, said that he had been in total isolation since October 1993. His tiny cell was extremely hot and unventilated. The Special Rapporteur pointed out to the Director-General of Justice, Penal Institutions and Worship that such conditions of detention were inhuman. He was told that they were the result of a court order. In a written note, the Special Rapporteur requested the Minister of Justice and Worship to intercede and put an end to the situation.

19. The visit made on 19 May 1994 to Bata prison revealed that the situation of the 37 detainees was similar to what it had been at the time of the October 1993 visit and that there had been no improvements whatsoever. Sanitary conditions were very poor, there was a shortage of drinking water and toilets and the blocks were in an appalling state of repair; some even had holes in the roof which let in the frequent rain. Although the prisoners undergo periodic medical examinations, there are no medicines in the prison. The only pharmaceutical supplies found during the visit were a box of rehydration salts provided by UNICEF and 12 ampoules of promethazine solution. The prisoners receive hardly any food, their sustenance consisting of just one loaf of bread a day and an occasional tin of sardines, and they are clearly undernourished. All the prisoners said that they found their enforced hunger unbearable; even though their relatives can bring them food, their extreme poverty and the fact that many of them live far away make it impossible for them to do so. In addition, the Special Rapporteur received repeated complaints that a considerable proportion of the food (loaves, the occasional parcels from Malabo and even the food provided by relatives) is confiscated by prison staff for their own consumption.

20. Although the prisoners are treated in a despotic and arbitrary fashion, while in prison they are not subjected to torture or to cruel treatment beyond that described. They still perform an exhausting and unpaid day's work, almost always in the homes of officials, mainly those of judicial officers (for example, the President of the Court of Appeal, the Judge of First Instance, etc.).

21. During his visit the Special Rapporteur found that 15 of the 17 people imprisoned for the incidents of 26 March 1994 in the district of Kogo still bore signs of very severe torture with open wounds that had been inflicted outside the prison on 28 March 1994, when they had arrived at Bata (see para. 30 below).

22. In early June 1994, in response to a specific request for clemency made by the Special Rapporteur, the President of the Republic granted a total pardon to 13 prison inmates. Five of them had been sentenced to up to 24 years' imprisonment by a court martial held in October 1993.

B. Administration of justice

23. There have been no changes in the structure of the administration of justice or in its mode of operation. The absence of guarantees of the independence and impartiality of judges is exemplified by cases of judges who, in addition to their judicial functions, act as officials in the Executive. A clear and distinct separation must be made between both branches, in order to enable judges to ensure respect for human rights in response to any abuse of authority. In addition, the organization of training courses on national and international law in order to improve the training of judges, prosecutors and lawyers is still a matter of priority.

C. Military jurisdiction

24. The unlimited encroachment of military jurisdiction into criminal matters continues to be a serious and very disturbing matter. Military jurisdiction continues to apply to offences that are not of a specifically military nature, such as homicide, theft and fraud. In some cases, military jurisdiction applies simply because the victim or injured party is a member of the armed forces; in others, because the perpetrator is a member of the armed forces. However, there is a third category of cases in which neither the offence nor the perpetrators nor the victims have anything to do with the military, but which are nevertheless taken up by the military courts. This is the situation, for example, of Francisco Obama Mañana, a farmer, who is being held in Bata prison for the murder of his wife. The Special Rapporteur has received reliable information that the rules of due legal process, particularly the right of defence, were not observed in the court martial held in Bata in July 1994 (the Kogo case). Nevertheless, the sentences handed down were particularly heavy, ranging from 12 to 30 years' imprisonment (see para. 30 below). The Special Rapporteur has insisted that the scope of military jurisdiction should be severely restricted by law to cases involving purely military offences committed by military personnel.

D. Legal structure of the State

25. There have been no changes in the legal structure of the State, and consequently the criticisms made by the Special Rapporteur in his previous report to the Commission on Human Rights (E/CN.4/1994/56, paras. 22-36 and 88) remain valid. The present legal structure of the State blatantly impedes the functioning of democracy.

26. Nevertheless, the statement made by the President of the Republic on 25 April 1994 at the opening ceremony of the plenary session of the House of Representatives of the People, in which he expressed the political will of the Government to consider legal reforms in order to guarantee rights and freedoms, is a positive development. That political will encompasses, inter alia, examination and reform of the Constitution, a step which could speed progress towards a State governed by the rule of law.

E. Failure to publicize laws and governmental acts

27. As far as publicizing of laws and governmental acts is concerned, the Special Rapporteur found no changes in the uncertainty about the law resulting from the non-existence of an official State gazette, as mentioned in his previous report to the Commission on Human Rights (E/CN.4/1994/56, para. 37). Although aware of the country's difficult economic circumstances, the Special Rapporteur considers that the Government should make a consistent effort periodically and regularly to publish the written texts of laws, decree-laws and governmental acts in an official State gazette, whose proper distribution would make it available to all interested sectors of society. This simple measure would improve the above-mentioned situation of uncertainty about the law.

28. Subsequently, with international financial and technical support, a start could be made on the more complex task of codifying current legislation, drafting codes and other laws and amending national legislation in order to harmonize it with the international legal instruments accepted by the Republic of Equatorial Guinea.

F. Arrests, detentions and torture of political activists and other individuals

29. The Special Rapporteur referred to the arrests, detentions and torture of political activists and other individuals in his previous report to the Commission on Human Rights (E/CN.4/1994/56, paras. 39-43). In this respect, it should be pointed out that there has been an improvement in the situation, as the number of cases and their frequency have diminished. However, it was ascertained that two persons detained in the village of Rebola on Bioko island, who were beaten at the time of their arrest, had been ill-treated. The victims were interviewed by the Special Rapporteur in Malabo prison. Generally speaking, both on the island of Bioko, particularly in the city of Malabo, and on the mainland, in the city of Bata, the authorities' concern that detainees should not be subjected to torture or to cruel, inhuman or degrading treatment was apparent.

30. However, this positive statement needs to be qualified and attention firmly drawn to the serious torture to which 15 persons were subjected on their arrival in Bata after having been arrested in the village of Kogo on suspicion of attacking a military barracks. These persons were brought before the military court and in July 1994 were sentenced to long terms of imprisonment (12 to 30 years). On 28 March 1994 they were taken to premises in the vicinity of the port of Bata, where they were cruelly tortured, in particular by being tightly bound hand and foot to a post that was then twisted and raised. The bonds cut so deeply into their flesh that when they were visited by the members of the mission two months later, almost all of them still had open festering wounds about three centimetres across on their wrists and ankles, and had been given no medication to cure them. Of the 15 prisoners who had been tortured, those with the most serious injuries were Basilio Bacale Obono, Clemente Mesi Obiang and Juan Mongomo Eboro. According to the complaints received, they were tortured in the presence of a military officer with the rank of Lieutenant-Colonel.

31. The Special Rapporteur feels obliged to point out that, even after seeing the evidence of those glaring wounds, the competent authorities, including the examining magistrate, the prosecutor who visited the prison and the prison governor, have been remiss in their conduct, as they have not taken any action to verify the facts, to identify those responsible and to bring criminal proceedings against them.

32. Consequently, by a note dated 24 May 1994 which was delivered to the Minister of Justice and Worship in person, the mission requested that those unlawful acts against the persons detained in the district of Kogo should be investigated and punished, and that the torture victims and the detainee María Teresa Akumu should be given medical attention and medication. Mrs. Akumu was pregnant and was receiving neither sufficient food nor medical supervision. In July 1994 she was sentenced to 12 years' imprisonment by the military courts (court martial).

33. A further negative element relating to the incidents referred to in the Special Rapporteur's previous report (E/CN.4/1994/56, paras. 45-47 and 50-51) is the absence of any indication that an administrative or judicial investigation has been made into the deaths of Pedro Motú, Gaspar Mba Oyono and Dámaso Abaga Nve, or into the rape of a Spanish aid worker by a person suspected of belonging to the State security forces.

G. Freedom of expression

34. On the question of the situation with regard to freedom of expression, it should be mentioned that there has been no amendment of the Printing and Publishing Act (No. 13/1992, dated 10 October 1992), whose authoritarian nature was noted by the Special Rapporteur in his previous report (E/CN.4/1994/56, para. 63). Nevertheless, the emergence of an independent weekly El Sol, and the absence of impediments to the publication and distribution of the journals of political parties, such as La Verdad, La Voz del Pueblo and others, are encouraging developments.

H. Religious freedom

35. During the period under review there was no amendment to the Act governing the Exercise of Religious Freedom (Act No. 4/1991, of 4 June 1991 as amended by Act No. 5/1992 of 10 January 1992). However, the Special Rapporteur received no complaints of State interference in worship or in the performance of the rights of the various denominations, with the exception of the fine imposed by the authorities on a Catholic catechist in Ebibeyin district for having criticized the Government in a sermon.

I. Freedom of movement and freedom to travel

36. The right of nationals freely to enter and leave their own country and freely to travel within it was more scrupulously observed during the period under review. Most of the leaders of opposition parties who wanted to travel abroad were able to do so without hindrance. However, as part of this pattern of achievements and setbacks, on 22 May 1994 Mr. Juan Balboa Boneque was prevented from boarding the Iberia flight to Madrid. The only explanation he was given was that "he had unfinished business". Mr. Balboa Boneque is a

former minister linked to the Movimiento de Auodeterminación de la Isla de Bioko (MAIB), whose members and supporters (of the Bubi ethnic group) have been singled out for repression. Recently, the Special Rapporteur was informed that the police at Bata airport prevented the political leader José Mecheba Ikaka from travelling to Malabo on 20 October 1994, maintaining that they had orders from their superiors.

37. Other significant steps forward have been the elimination of some of the military checkpoints on the roads and at the entrances to villages, and the absence of impediments to opposition political leaders travelling throughout the country. However, some checkpoints are still in place; they should be rapidly removed.

J. Situation of women

38. There is no evidence of any changes in the legal and social situation of women in Equatorial Guinea, who are still relegated to an inferior position and discriminated against. As has already been mentioned, in Malabo prison the Special Rapporteur interviewed a woman who had been imprisoned "until she pays back the dowry". And it was not a traditional court but the judge in the village of Elan Nguema who imposed this sentence of indeterminate duration.

39. Two further examples illustrate women's limited participation in political decision-making bodies; in the recently elected House of Representatives of the People, out of a total of 80 deputies, only 3 are women; and of the new Government's 42 ministers and Secretaries of State, only 2 are women.

K. Ethnic discrimination

40. The Special Rapporteur considers that it is not within his competence to express an opinion on the issue of self-determination, in the absence of a specific mandate from the Commission on Human Rights. Accordingly this issue should be examined by the United Nations bodies with specific competence for that purpose. The case of ethnic discrimination is different, as the right to be free of any form of discrimination is clearly within the Special Rapporteur's mandate and can be analysed in his forthcoming reports.

L. Political rights

41. Political tension eased to some extent immediately after the elections of 21 November 1993. Serious doubts about the elections were expressed by the Joint Opposition Platform, which took no part in them, and by the international community, on account of their regularities described in the Special Rapporteur's previous report (E/CN.4/1994/56, paras. 81-82).

42. Respect for the rights of political parties may be said to have improved, particularly in the towns of Malabo and Bata, where the premises of the opposition groups are open and where they are functioning without any significant hindrance on the part of the government authorities. Unfortunately, this marked improvement in day-to-day political life in the towns of Malabo and Bata is not matched in the rest of the country, particularly on the mainland. However, the Special Rapporteur received

information about the arrest and brief detention, in Bata in October 1994, of the political leaders Plácido Micó, Victorino Bolekia Banay and Amancio Gabriel Nze. They were released on 13 October.

43. During his mission the Special Rapporteur focused particular attention on verifying the political situation in the district of Ebibeyin, the capital of the mainland province of Kie-Ntem. This district is the furthest from the coast, and one of the areas of greatest conflict and violations, about which there have been substantiated and constant reports. The mission visited the town and ascertained that the premises of the Unión Popular party, which is apparently the most active opposition party in the region, had been closed down since December 1993, when it was sacked by members of the police and the government party, the Partido Democrático de Guinea Ecuatorial (PDGE). The former is a legally recognized political party and on 20 May 1994, two days before the mission arrived, the premises were reopened on orders from the Governor. In addition, on 9 December 1993 leaders of the party and of other opposition forces were arrested, imprisoned and sentenced to heavy fines which had to be paid before they could be released. In early March 1994, there was a further wave of arrests and those arrested were each sentenced to 60 days' forced labour and a fine of CFAF 40,000. Those who were unable to pay the fines had to stay in prison until Mr. Ramón Mutuy was appointed as the new Governor and ordered their release.

44. Later, a fine of CFAF 100,000 was imposed on the members of the Unión Popular executive for having allegedly held a political meeting in the frontier town of Kieosi. As an indication of the size of the fine, it should be borne in mind that the average monthly wage in that town is approximately CFAF 7,000 (at the current rate of exchange, US$ 1 was worth CFAF 580). The fines were imposed by the Government Delegate, Mr. Luciano Edjiang Mbo, whose arbitrary actions and abuse of power were repeatedly denounced.

45. The Special Rapporteur had an interview with Governor Ramón Mutuy, who undertook to rectify the anomalies detected and to facilitate political activity in the district.

46. Similar complaints to those concerning Ebibeyin were made about the district of Nsoc-Nsomo, also in Kie-Ntem province, in connection with the activity of the Government Delegate, Mr. Lucio Azeine Eyana. On 6 October 1994, three members of the opposition party Convergencia para la Democracia Social (CPDS), Mr. Indalecio Abuy, Mr. Indalecio Eko and Mr. Tomás Nzo, were arrested at a checkpoint on the outskirts of Niefang, on the mainland, and taken to Niefang police station, from which they were released five days later.

47. Regarding the political rights of citizens and their political organizations, it should be mentioned that the Government has taken a decision shortly to hold municipal elections throughout the country. Before the elections are held, the electoral roll will have to be revised as proposed by the international experts, by amending the Electoral Act and setting up an independent electoral administration. Political dialogue between the Government and the 14 legally recognized parties is also essential in order to ensure that the municipal elections take place in an atmosphere of

transparency and democratic credibility. It is also vital that the Meetings and Demonstrations Act and the Printing and Publishing Acts should be amended to allow the electoral process to proceed unhindered.

48. It is encouraging that both the Government and the parties which took no part in the elections held in November 1993 informed the Special Rapporteur of their desire to set up machinery in order to reach consensus on the democratic ground rules for the holding of the municipal elections and, subsequently, the 1996 presidential elections.

III. CONCLUSIONS

49. In the course of his verification activities and dialogue with the government authorities of Equatorial Guinea and all social sectors, and with diplomatic representatives and representatives of intergovernmental organizations and agencies, the Special Rapporteur reached the following conclusions:

(a) In comparison with the situation described in his previous report to the Commission on Human Rights (E/CN.4/1994/56), there is evidence of progress in the situation and enjoyment of human rights;

(b) Progress has not been achieved across the board, as there are still serious violations of human rights as well as disparities between the different parts of the country, where there is greater respect for rights in the main cities, Malabo and Bata;

(c) The progress described is attributable to circumstances and is not sufficiently deep-rooted to be irreversible. It has not been accompanied by changes in legislation or in the State structure to render it permanent and less precarious;

(d) However, the progress described indicates that in certain areas of the Government there is a political will to bring about changes in order to comply with Commission on Human Rights resolution 1994/89 of 9 March 1994;

(e) The inadequacy of the progress made should prompt the international community to continue to urge the Government of the Republic of Equatorial Guinea to make a greater and sustained effort to extend and consolidate this improvement along the lines laid down in Commission resolution 1994/89 in order to avoid setbacks;

(f) Regardless of the above, Equatorial Guinea should ratify or accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention on the Elimination of All Forms of Racial Discrimination;

(g) In order to facilitate the changes needed to improve the human rights situation in Equatorial Guinea, the earliest possible start should be made on the programme of training courses mentioned in paragraph 51 of this report;

(h) Notwithstanding these observations, future visits to Equatorial Guinea by the Special Rapporteur will make it possible to assess whether the situations described above persist or have changed and to advise the Government of Equatorial Guinea on the adoption of the appropriate measures.

IV. RECOMMENDATIONS

50. In the light of the human rights situation in the Republic of Equatorial Guinea described above, the Special Rapporteur believes that it is important for the Commission on Human Rights to repeat its request to the Secretary-General of the United Nations, through the Centre for Human Rights and with the cooperation of the United Nations Development Programme, to provide the Government of Equatorial Guinea with the technical assistance approved by its resolution 1994/89 of 9 March 1994 and specified in paragraph 105 of the Special Rapporteur's previous report (E/CN.4/1994/56).

51. After having analysed and discussed with the authorities of Equatorial Guinea the priorities and overriding necessities of the technical assistance recommended, it is considered that the assistance could initially comprise the organization of the following training courses and seminars:

(a) Training courses on the independence, impartiality and suitability of the Judiciary, democratic principles, and national and international human rights law. These courses would be intended for judges, prosecutors, senior government officials and lawyers;

(b) Training courses on human rights and the treatment of detainees and prisoners, for military and police personnel and prison officers;

(c) Training courses on human rights and fundamental freedoms, for leaders of political parties and representative of non-governmental organizations and social sectors;

(d) A seminar on the rights of women and the position of women in the society of Equatorial Guinea, for government officials and representatives of social sectors.

52. The activities described above are based on the mandate conferred by Commission on Human Rights resolution 1994/89 of 9 March 1994 and, more generally, on the terms of its resolution 1993/41 of 5 March 1993.

Annex

LETTER DATED 3 JANUARY 1995 FROM THE SPECIAL RAPPORTEUR ADDRESSED TO THE CHAIRMAN OF THE COMMISSION ON HUMAN RIGHTS

After the debate which followed the presentation of my report, the Commission on Human Rights adopted resolution 1994/89, dated 9 March 1994, on the human rights situation in Equatorial Guinea. In paragraph 10 of that resolution, the Commission requested the Secretary-General to "provide the Government of Equatorial Guinea with technical assistance in those specific areas suggested by the Special Rapporteur in his report". The specific areas were those developed in my report in relation to technical assistance (E/CN.4/1994/56, para. 105).

Having received what I consider to be a clear mandate from the Commission, and also on the basis of Commission resolution 1993/41 of 5 March 1993, which, in respect of the administration of justice, calls upon, inter alia, special rapporteurs to make specific recommendations, "including proposals for possible concrete measures under advisory services programmes", I visited Equatorial Guinea in May 1994. This was in response to a request from the Government for technical assistance, made in a formal invitation to the Special Rapporteur to "travel to Malabo to continue his activity and to carry out the appropriate studies for the implementation of his recommendations".

As explained in my 1995 report, I held discussions with His Excellency the President of the Republic and with a number of Ministers and Secretaries of State. All of them welcomed the idea that the United Nations (through the Centre for Human Rights, and with the cooperation of the United Nations Development Programme (UNDP), which had offered its support) should carry out the activities described in section IV of my current report to the Commission. There was an equally positive and enthusiastic response from the UNDP representatives in Malabo, from the European Union and from the diplomatic representatives of those States which are the main donors of aid to Equatorial Guinea. The leaders of the main opposition parties reacted in a similar fashion. I can assure you that the compilation of this programme of activities was the fruit of all the discussions referred to and suggestions made, both by the Government and by the other partners. All parties insisted that it was desirable for the programme to be carried out with the utmost urgency and October 1994 was even set as its starting date.

In June 1994, diplomatic representatives of the main donor countries, UNDP, the European Union, the 14 legally recognized political parties and the governmental authorities met in Malabo at the so-called "Round Table". The Round Table unanimously accepted the assessment contained in the report submitted by the Special Rapporteur and the Human Rights Consultant to the Centre for Human Rights on completion of their mission to Equatorial Guinea. I should like to point out that the agenda of the Round Table included three items - human rights, electoral administration and the electoral roll - and that agreement in principle was reached on all three. The issue of human rights was given priority in the discussions and it was made clear that future

financial assistance to the State would be conditional upon observance of human rights, as verified by the Commission on Human Rights through its Special Rapporteur.

The prime objective of the activities proposed as part of the technical assistance to be provided by the Centre for Human Rights - activities which are to be defined and managed by the Centre - would be to train State officials and members of civil society; they would have a positive impact by expanding the sphere of activity of civil society, which is virtually non-existent at the present time. They could also give a strong impetus to a series of measures which the Commission urged the Government to undertake in its resolution 1994/89. None of the opinions expressed in Equatorial Guinea contained an objection to those activities being carried out.

The delay in responding positively to the mandate conferred by the Commission on Human Rights placed the Special Rapporteur in an uncomfortable position vis-à-vis the authorities of Equatorial Guinea, including the Head of State himself. In my view, this had a detrimental effect on the credibility of the Special Rapporteur, the Centre for Human Rights and the Commission on Human Rights. Without wishing in the slightest to detract from the courageous and wise efforts made for 14 years by the previous Special Rapporteur and by the Centre for Human Rights, it is my opinion that a fresh approach to the case of Equatorial Guinea kindled hopes of an improvement in the human rights situation. Much remains to be done and setbacks may yet occur, but the time seemed ripe to initiate the necessary changes.

In spite of my repeated requests and consultations, it was impossible to obtain a clear and precise reply from the officials responsible for the Centre's Technical Assistance Services. The UNDP office in Malabo forcefully expressed similar concerns and requests, which also remained unanswered. In those circumstances, I had a long conversation with the United Nations High Commissioner for Human Rights and, at his request, handed him a note dated 12 September 1994.

Time has passed and I have so far been unable to make a further visit to Equatorial Guinea, for lack of answers to the questions which the Government would undoubtedly raise, and with a diminished possibility of contributing to the process of improving the human rights situation.

All these circumstances, Mr. Chairman, account for this note. My sole desire is that it will prove possible to overcome the difficulties I have described, and that it will be possible to make progress in the only sensible direction: to contribute to the improvement and even realization of the enjoyment of human rights and fundamental freedoms by the people of Equatorial Guinea.

(signed): Alejandro Artucio
Special Rapporteur

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